

**PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA
COMMISSION DIRECTIVE**

ADMINISTRATIVE MATTER

☐

DATE

October 21, 2020

MOTOR CARRIER MATTER

☐

DOCKET NO.

2020-218-E

UTILITIES MATTER

☒

ORDER NO.

SUBJECT:

DOCKET NO. 2020-218-E - Alex Kadoshnikov, Complainant/Petitioner v. Duke Energy Carolinas, LLC, Defendant/Respondent - Staff Presents for Commission Consideration Duke Energy Carolinas, LLC's Motion to Dismiss.

COMMISSION ACTION:

In his Complaint, Mr. Kadoshnikov states he is currently enrolled in the smart meter opt out program with Duke Energy Carolinas, LLC but requests that a bi-directional, non-communicating manually read meter be installed at his residence so that he can buy and sell electricity from the Company. Out of concern for his family's health and safety, Mr. Kadoshnikov suggests the installation can be achieved safely by connecting a telephone to send usage information or mounting a meter on his pole and tie in there instead of at his residence. The meter relocation option that Mr. Kadoshnikov suggested creates a question of fact as to whether or not that the meter can be relocated as provided under the Company's tariff.

The Company has filed a Motion to Dismiss the complaint asserting that the Complaint contains no allegation that Duke has violated any applicable statute or regulation for which the Commission can grant relief and, pursuant to S.C. Code Ann. § 58-27-1990, a hearing in this case is not necessary in the public interest or for the protection of substantial rights. The company also asserts that Mr. Kadoshnikov's Complaint is barred by the doctrine of res judicata because Mr. Kadoshnikov could have raised these issues or the option of relocating his meter as part of his prior Complaint proceeding regarding AMI meters before the Commission.

In a Motion to Dismiss, only the allegations set forth in the face of the Complaint should be considered. The Motion should not be granted if the facts alleged and inferences reasonably deducible therefrom would entitle Mr. Kadoshnikov to any relief on any theory of his Complaint. The question is whether, in the light most favorable to Mr. Kadoshnikov, and with every doubt resolved in his behalf, the Complaint states any valid claim for relief. *Toussaint v. Ham*, 292 S.C. 415, 416, 357 S.E.2d 8, 9 (1987). The Complaint should not be dismissed merely because the court doubts the party will prevail in the action. *Plyler v. Burns*, 373 S.C. 637, 645, 647 S.E.2d 188, 192 (2007).

I move that the Commission deny the Motion to Dismiss filed by the Company and instruct the Clerk's Office to establish a new schedule for filing testimony and to reschedule the hearing before the Commission.

PRESIDING: J. Williams

SESSION: Regular

TIME: 2:00 p.m.

	MOTION	YES	NO	OTHER
BELSER	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Present in Hearing Room
CASTON	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Present in Hearing Room
ERVIN	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Voting via Skype
POWERS	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Present in Hearing Room
THOMAS	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Voting via Skype
C. WILLIAMS	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Voting via Skype
J. WILLIAMS	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Present in Hearing Room

(SEAL)

RECORDED BY: J. Schmieding

